State of Illinois County of Kendall Zoning Petition #20-32

ORDINANCE NUMBER 2021-<u>UD</u>

MAP AMENDMENT REZONING 1.32 ACRES +/- TO B-3 HIGHWAY BUSINESS DISTRICTAND GRANTING A SPECIAL USE PERMIT FOR A LANDSCAPING BUSINESS ON THE NORTHWESTERN 2.46 +/- ACRES AT 9000 ROUTE 34 AND IDENTIFIED BY PARCEL IDENTIFICATION NUMBERS 02-27-151-001 AND 02-27-151-003 IN BRISTOL TOWNSHIP Rezone from A-1 to B-3 With Special Use Permit

<u>WHEREAS</u>, Section 13:07 of the Kendall County Zoning Ordinance permits the Kendall County Board to approve map amendments and provides the procedure through which map amendments are granted; and

<u>WHEREAS</u>, Section 13:08 of the Kendall County Zoning Ordinance permits the Kendall County Board to issue special use permits and place conditions on special use permits and provides the procedure through which special use permits are granted; and

<u>WHEREAS</u>, Section 9:03.C.15 of the Kendall County Zoning Ordinance permits the operation of landscaping businesses as a special use with certain restrictions in the B-3 Highway Business Zoning District; and

<u>WHEREAS</u>, the property which is the subject of this Ordinance has been, at all relevant times, and remains currently located within the A-1 Agricultural Zoning District and B-3 Highway Business Zoning District and consists of approximately 1.32 +/- acres zoned A-1 Agricultural District and 1.14 +/- acres zone B-3 Highway Business District all of which are located at the northwestern portion of the property currently addressed as 9000 Route 34 (PINs: 02-27-151-001 and 02-27-151-003), in Bristol Township. The legal description for the subject property is set forth in Exhibit A attached hereto and incorporated by reference, and this property shall hereinafter be referred to as "the subject property."; and

WHEREAS, the subject property is owned the Cindy Gates Trust and is represented by Cindy Gates; and

WHEREAS, the subject property is leased to Cox Landscaping, LLC and is represented by Mark Cox; and

<u>WHEREAS</u>, Cindy Gates on Behalf of the Cindy Gates Trust and Mark Cox on Behalf of Cox Landscaping, LLC jointly filed a Petitioner for Map Amendment and Special Use and shall hereinafter be referred to as "Petitioner"; and

<u>WHEREAS</u>, on or about January 20, 2021, Petitioner's representative filed a petition for a Map Amendment rezoning the subject property from A-1 Agricultural to B-3 Highway Business District and for a Special Use Permit to operate a landscaping business on the subject property; and

<u>WHEREAS</u>, following due and proper notice by publication in the Kendall County Record on February 4, 2021, the Kendall County Zoning Board of Appeals conducted a public hearing on March 1, 2021, at 7:00 p.m., in the Kendall County Historic Courthouse at 109 W. Ridge Street in Yorkville at which the Petitioner's representative presented evidence, testimony, and exhibits in support of the requested Map Amendment and Special Use Permit and zero members of the public asked questions or testified in favor or testified in opposition to the request; and

<u>WHEREAS</u>, based on the evidence, testimony, and exhibits, the Kendall County Zoning Board of Appeals has made their findings of fact and recommended approval of the Map Amendment and Special Use Permit with restrictions as set forth in the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, dated March 1, 2021, a true and correct copy of which is attached hereto as Exhibit B; and

State of Illinois County of Kendall

<u>WHEREAS</u>, the Kendall County Planning, Building and Zoning Committee of the Kendall County Board has reviewed the testimony presented at the aforementioned public hearing and has considered the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, and has forwarded to the Kendall County Board a recommendation of approval of the requested Map Amendment and Special Use Permit; and

<u>WHEREAS</u>, the Kendall County Board has considered the recommendation of the Planning, Building and Zoning Committee and the Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals, and has determined that said petition is in conformance with the provisions and intent of the Kendall County Zoning Ordinance; and

<u>WHEREAS</u>, this special use permit shall be treated as a covenant running with the land and is binding on the successors, heirs, and assigns as to the same special use conducted on the property; and

<u>NOW, THEREFORE, BE IT ORDAINED, BY THE COUNTY BOARD OF KENDALL COUNTY, ILLINOIS,</u> as follows:

- 1. The Findings of Fact and Recommendation of the Kendall County Zoning Board of Appeals attached hereto as Exhibit B is hereby accepted and the Findings of Fact set forth therein are hereby adopted as the Findings of Fact and Conclusions of this Kendall County Board.
- 2. The Kendall County Board hereby grants approval of Petitioner's petition for a Map Amendment rezoning 1.32 +/- acres of the subject property from A-1 Agricultural District to B-3 Highway Business District as outlined in the legal description attached hereto as Exhibit A.
- 3. The Kendall County Board hereby grants approval of Petitioner's petition for a special use permit for the operation of a landscaping business in the area outlined in the legal description attached hereto as Exhibit A subject to the following conditions and restrictions:
 - A. The site shall be developed substantially in accordance with the attached site plan attached hereto as Exhibit C.
 - B. Any new structures constructed on the property shall not be considered for agricultural purposes and must secure applicable building permits.
 - C. Except for the purposes of loading and unloading, all landscape related materials shall be stored indoors or in the designated storage areas shown on the site plan attached hereto as Exhibit C.
 - D. Equipment and vehicles related to the business may be stored outdoors.
 - E. Within six (6) months of approval of the ordinance allowing the special use for a landscaping business at the subject property, the owners or operators of the business allowed by this special use permit shall install a cyclone mesh fence approximately six (6') in height in substantially the location depicted on the site plan.
 - F. One (1) business related sign five feet (5') wide by two feet (2') tall shall be allowed on the subject property as shown on the attached site plan (Attachment 3). The sign can be a maximum four feet (4') off of the ground. The sign may be illuminated.

- G. The owners of the business allowed by this special use permit may install necessary lighting for security purposes. All lights shall follow the lighting provisions contained in the Kendall County Zoning Ordinance.
- H. The owners of the business allowed by the special use permit shall maintain the parking area shown on the site plan and in substantially the same location as depicted on the site plan attached hereto as Exhibit C. The parking area shall be gravel.
- I. A berm three feet (3') in height as measured from the top of the berm to the base of the berm shall be installed and maintained in substantially the same location as shown on the site plan.
- J. No landscape waste generated off the property can be burned on this site.
- K. A maximum of fifteen (15) employees of the business allowed by this special use permit may report to this site for work. No employees shall engage in the sale of landscaping related materials on the property.
- L. No customers of the business allowed by this special use permit shall be invited onto the property by anyone associated with the use allowed by this special use permit.
- M. The hours of operation of the business allowed by this special use permit shall be Monday through Saturday from 6:45 a.m. until 5:30 p.m.
- N. The owners of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
- O. The property owner and operator of the business allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of business.
- P. Failure to comply with one or more of the above conditions or restrictions could result in the amendment or revocation of the special use permit.
- Q. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
- 4. This special use permit shall be treated as a covenant running with the land and is binding on the successors, heirs, and assigns as to the same special use conducted on the property.
- 5. The Zoning Administrator and other appropriate County Officials are hereby authorized and directed to amend the Official Zoning Map of Kendall County to reflect this Map Amendment and Special Use Permit.

<u>IN WITNESS OF</u>, this ordinance has been enacted by a majority vote of the Kendall County Board and is effective this 20th day of April, 2021.

State of Illinois County of Kendall Zoning Petition #20-32

Attest:

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Kendall County Clerk Debbie Gillette



Je

Kendall County Board Chairman Scott R. Gryder

No. 17093C0045H with an effective date of January 8, 2014.

LEGAL DESCRIPTION OF TRACT TO BE REZONED FROM "B3" TO "B3-SU":

That Part of Lot 5 of Baker's Subdivision of Sections 27 and 28, Township 37 North, Range 7 East of the Third Principal Meridian described as follows: Beginning at the Southwest Corner of said Lot 5; thence South 66°01'56" East, along the Southwesterly Line of said Lot 5, 410.0 feet; thence North 23°58'04" East, 85.38 feet; thence North 48°41'24" West, 316.18 feet to the Southeast Line of U. S. Route 34; thence South 55°01'49" West, 209.70 feet to the point of beginning in Bristol Township, Kendall County, Illinois.

LEGAL DESCRIPTION OF TRACT TO BE REZONED FROM "A1" TO "B3-SU":

That Part of Lots 4 and 5 of Baker's Subdivisions of Sections 27 and 28, Township 37 North, Range 7 East of the Third Principal Meridian described as follows: Commencing at the Southwest Corner of said Lot 5; thence South 66°01'56" East, along the Southwesterly Line of said Lot 5, 410.0 feet; thence North 23°58'04" East, 85.38 feet for the point of beginning; thence North 48°41'24" West, 316.18 feet to the Southeast Line of U. S. Route 34; thence North 55°01'49" East, 202.81 feet to a line that is parallel with and 15.0 feet Southwest of the Northeasterly Line of said Lot 4 of Baker's Subdivision; thence South 65°51'43" East, along said parallel line, 197.16 feet to a line drawn North 23°58'04" East from the point of beginning; thence South 23°58'04" West, 267.38 feet to the point of beginning in Bristol Township, Kendall County, Illinois. LEGAL

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NO. 19313 NAME COX

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Phillip D. Young and

Exhibit A

Exhibit B

The Kendall County Zoning Board of Appeals approved the following Findings of Fact and Recommendation at their meeting on March 1, 2021, by a vote of seven (7) in favor and zero (0) in opposition.

FINDINGS OF FACT-MAP AMENDMENT

§ 13:07.F of the Zoning Ordinance outlines findings that the Zoning Board of Appeals must make in order to recommend in favor of the applicant on map amendment applications.

Existing uses of property within the general area of the property in question. The surrounding properties are used for agricultural and commercial purposes. The subject property has been used for a nursery and landscaping business for several years.

The Zoning classification of property within the general area of the property in question. The surrounding properties have business, office, residential, and agricultural zoning classifications. The subject property is split zoned A-1 Agricultural District and B-3 Highway Business District.

The suitability of the property in question for the uses permitted under the existing zoning classification. The property is presently split zoned A-1 and B-3. Landscaping businesses are special uses within both zoning classifications. However, from a regulatory and use standpoint, having a consistent zoning classification across both uses removes the possibilities of inconsistent and conflicting regulations that exist when a property possesses more than one (1) zoning classification.

The trend of development, if any, in the general area of the property in question, including changes, if any, which may have taken place since the day the property in question was in its present zoning classification. The Zoning Board of Appeals shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such an amendment is in the public interest and is not solely for the interest of the applicant. The Zoning Board of Appeals may recommend the adoption of an amendment changing the zoning classification of the property in question to any higher classification than that requested by the applicant. For the purpose of this paragraph the R-1 District shall be considered the highest classification and the M-2 District shall be considered the lowest classification. The trend of development along this portion of Route 34 is commercial, retail, office, similar related business uses.

Consistency with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. The Land Resource Management Plan calls for the subject property to be Suburban Residential and the Yorkville Comprehensive Plan calls for the property to be Agricultural even though a portion of the property has been zoned for business uses since the 1970s.

FINDINGS OF FACT-SPECIAL USE PERMIT

§ 13:08.J of the Zoning Ordinance outlines findings that the Zoning Board of Appeals must make in order to recommend in favor of the applicant on special use permit applications.

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. The operation of the special use will not be detrimental to the public health, safety, morals, comfort, or general welfare. The owners of the business allowed by the special use permit will not invite the public onto the property.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. The subject property

has been used as a landscaping business for a number of years. Appropriate restrictions may be placed in the special use permit to regulate the number of employees, hours of operation, and aesthetics of the operations at the property. Therefore, the neighboring property owners should not suffer loss in property values and will not negatively impact the adjacent land uses.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. This is true. The property has two (2) points of access off of Route 34. The site has adequate utilities and no customers of the business allowed by the special use permit will be invited onto the property. The owners of the business allowed by the special use permit have applied for applicable stormwater permits.

That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Zoning Board of Appeals. **True, the Petitioners are not requesting any variances.**

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. True, the proposed use is consistent with an objective found on Page 6-34 of the Kendall County Land Resource Management Plan which calls for "a strong base of agricultural, commercial and industrial uses that provide a broad range of job opportunities, a healthy tax base, and improved quality of services to County residents" through the encouragement "... of locally owned businesses."

RECOMMENDATION

Approval subject to the following conditions and restrictions for the special use permit:

- 1. The site shall be developed substantially in accordance with the site plan.
- 2. Any new structures constructed on the property shall not be considered for agricultural purposes and must secure applicable building permits.
- 3. Except for the purposes of loading and unloading, all landscape related materials shall be stored indoors or in the designated storage areas shown on the site plan.
- 4. Equipment and vehicles related to the business may be stored outdoors.
- 5. Within six (6) months of approval of the ordinance allowing the special use for a landscaping business at the subject property, the owners or operators of the business allowed by this special use permit shall install a cyclone mesh fence approximately six (6') in height in substantially the location depicted on the site plan
- 6. One (1) business related sign five feet (5') wide by two feet (2') tall shall be allowed on the subject property as shown on the site plan. The sign can be a maximum four feet (4') off of the ground. The sign may be illuminated.
- The owners of the business allowed by this special use permit may install necessary lighting for security purposes. All lights shall follow the lighting provisions contained in the Kendall County Zoning Ordinance.
- The owners of the business allowed by the special use permit shall maintain the parking area shown on the site plan and in substantially the same location as depicted on the site plan. The parking area shall be gravel.
- 9. A berm three feet (3') in height as measured from the top of the berm to the base of the berm shall

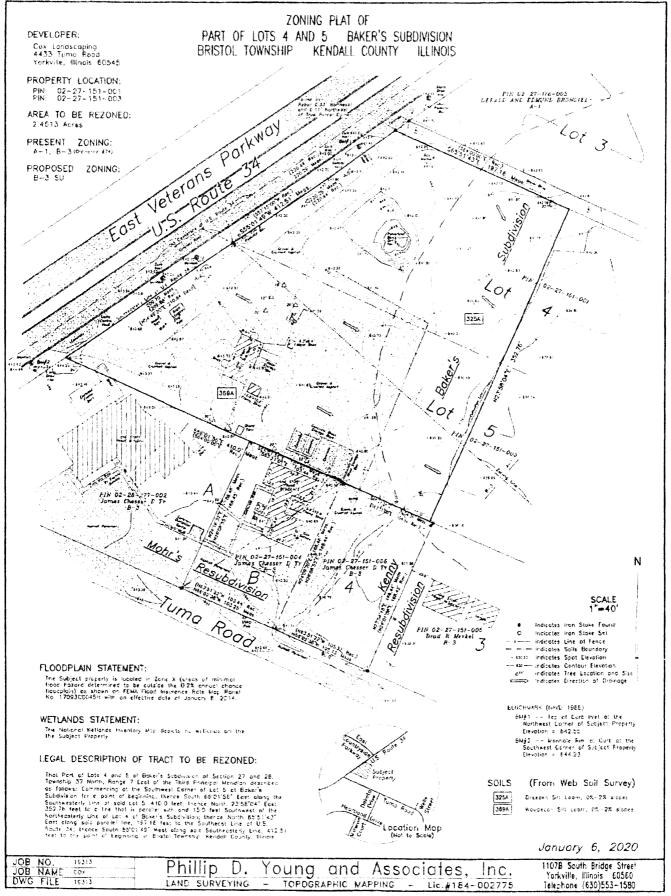
be installed and maintained in substantially the same location as shown on the site plan.

10. No landscape waste generated off the property can be burned on this site.

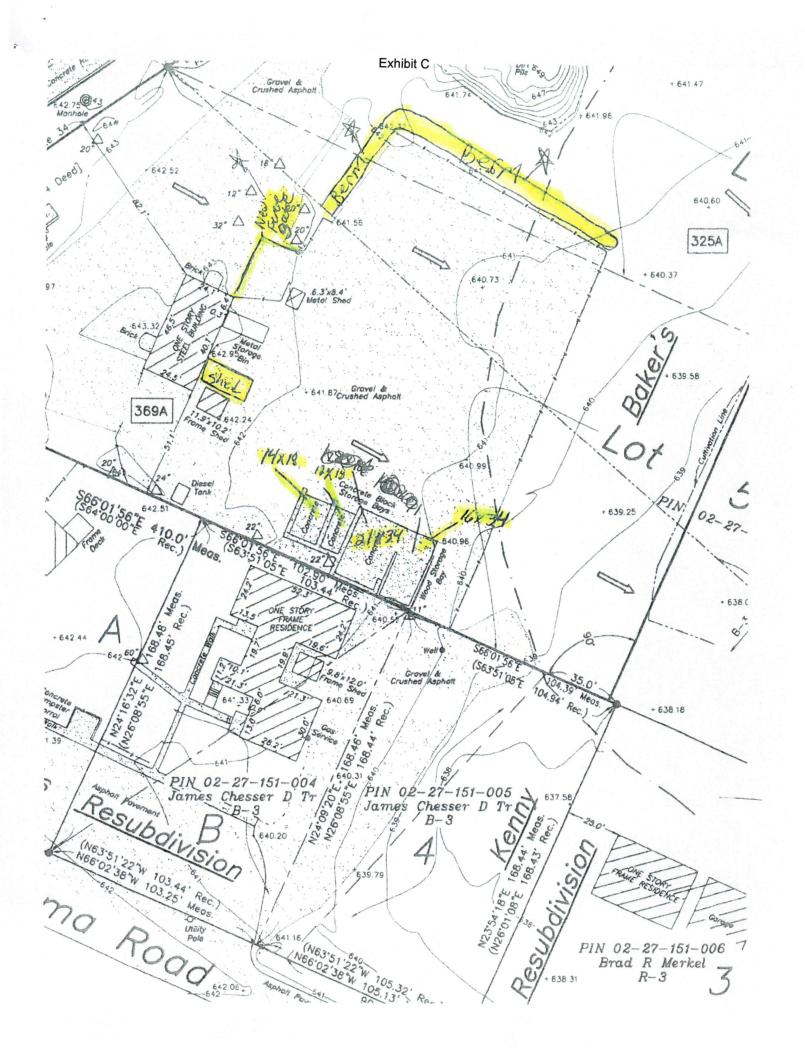
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- A maximum of fifteen (15) employees of the business allowed by this special use permit may report to this site for work. No employees shall engage in the sale of landscaping related materials on the property.
- 12. No customers of the business allowed by this special use permit shall be invited onto the property by anyone associated with the use allowed by this special use permit.
- 13. The hours of operation of the business allowed by this special use permit shall be Monday through Saturday from 6:45 a.m. until 5:30 p.m.
- 14. The owners of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
- 15. The property owner and operator of the business allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of business.
- 16. Failure to comply with one or more of the above conditions or restrictions could result in the amendment or revocation of the special use permit.
- 17. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
- 18. This special use permit shall be treated as a covenant running with the land and is binding on the successors, heirs, and assigns as to the same special use conducted on the property.

Exhibit C



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December 4, 2020

Mr. Matt Asselmeier Kendall County Planning, Building and Zoning Department 111 W Fox St Room 204 Yorkville, IL 60560-1498

Re: Cox Landscaping 9000 E. Veterans Parkway Yorkville IL

Dear Mr. Asselmeier,

I visited the site located at 9000 E Veterans Parkway and walked the site to review the parking and storage areas used by Cox Landscaping. The site topographic survey had recently been done by Phil Young & Associates and we completed a Civil Site Plan detailing the areas of topsoil stockpile and the landscape berm which was installed on the north and east sides of the rear storage area. We reviewed the site history of this property utilizing google earth back to 2000 and the north portion utilized by Cox Landscaping has not had any significant change since the previous landscape company used this site.

The drainage pattern is from north to south. The parking lots and storage area all drain to the south. The landscape berm around the rear storage area and the topsoil stockpile do not block or impede the overland flow of storm water to the south. There was no erosion of the topsoil stockpile noticed on the south side of the topsoil stockpile. Cox Landscaping stated that they use the topsoil on an as needed basis for their landscaping projects.

If you have any additional questions, please contact us.

Sincerely,

Tebrugge Engineering

John Tebrugge

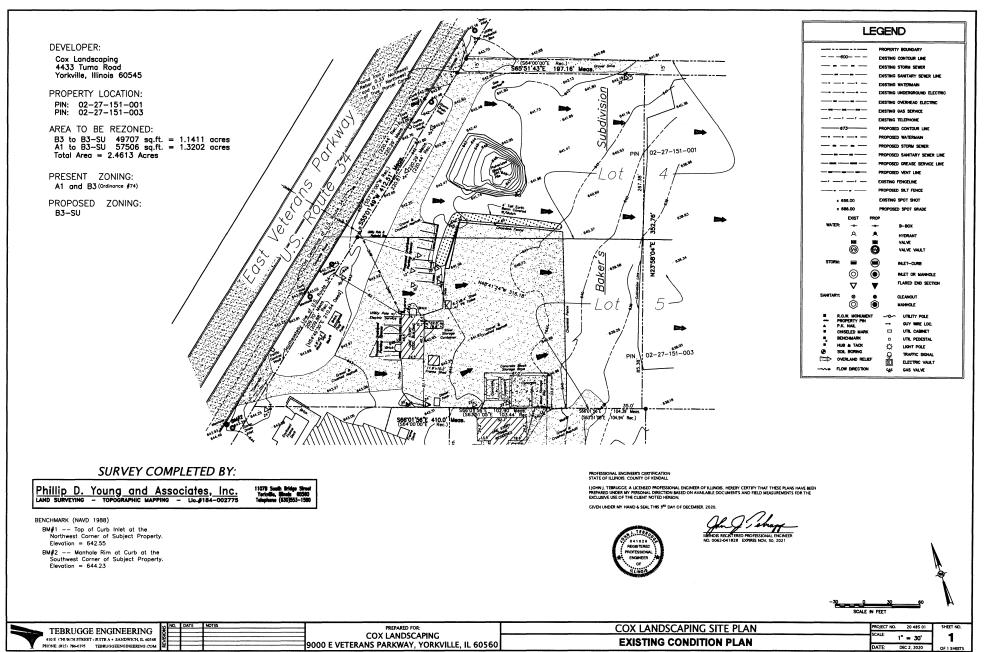


Exhibit C